

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2001-302-C - ORDER NO. 2002-218  
MARCH 26, 2002

IN RE: Application of Network US, Inc. d/b/a CA	)	ORDER
Affinity for a Certificate of Public	)	GRANTING
Convenience and Necessity to Provide Resold	)	CERTIFICATE FOR
Intrastate Interexchange Telecommunications	)	LONG DISTANCE
Services within the State of South Carolina.	)	AUTHORITY

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Network US, Inc. d/b/a CA Affinity ("Network US" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of interexchange telecommunications services within the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2001) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Network US to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Network US's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on February 27, 2002 at 10:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable William Saunders, Chairman, presided. Network US was represented by John J. Pringle, Esquire. Adelaide D. Kline, Staff Counsel, represented the Commission Staff.

Ms. Ann Shah, Vice President of Operations of Network US, appeared and testified in support of the Application. Ms. Shah testified that she is responsible for the day to day operations of the office. The record reveals that Network US is a privately-held Illinois corporation that has received authorization to transact business within the State of South Carolina. Upon receiving certification from the Commission, Network US plans to operate as a reseller of intraLATA and interLATA intrastate telecommunications services on a statewide basis. The record reveals that Network US seeks authority to offer a variety of switched message telecommunications services, toll-free service, post-paid calling card services, and directory assistance service to South Carolina customers. Ms. Shah stated that Network US has no plans at this time to own, operate, control or manage any telecommunications transmission facilities within the State of South Carolina and does not intend to obtain or construct any such facilities or equipment. The Company reserved the right, however, to install its own facilities, if and when business conditions warrant, and upon approval of the Commission. Network US will operate exclusively as a "switchless" reseller. Ms. Shah testified that Network US will arrange for its proposed services to be furnished using the transmission facilities of other certificated carriers to the extent permitted by the Commission and where consistent with applicable tariff regulations. Ms. Shah offered that Network US is currently authorized to provide

telecommunications services in thirty-five states and at the time of the hearing, was actually operating in twenty-two states, with certification pending in three states. In addition, the Company was in the process of obtaining certification in Arizona, California, Georgia, Louisiana, North Carolina and Nebraska via certificate transfer from CA Affinity, with whom it merged in 2001.

Ms. Shah testified that Network US currently has another docket pending at this Commission which is requesting Commission approval of the transfer of assets from Affinity Corporation to Network US. She explained that Affinity Corporation had experienced financial difficulties in the recent past and was purchased by Network US in early 2001.

Regarding the Company's technical ability to offer telecommunications services in South Carolina, Ms. Shah testified that the Company has extensive telecommunications, managerial and technical expertise. She explained that Network US will market its services by using independent agents and/or in-house sales representatives. She said the Company will market to affinity organizations who themselves then market the services. Ms. Shah stated Network US is aware of the Commission's marketing guidelines. The record reveals that customer service is available from 7:00 a.m. until 8:00 p.m. Monday through Friday and on Saturday from 8:00 a.m. until 5:00 p.m. Voice mail services respond to customer service calls after hours. The Company's toll-free number is (800) 964-3863. Ms. Shah offered that Network US intends to utilize MCI WorldCom as its underlying carrier. She assured the Commission that any carrier with whom the Company contracts for the provision of interexchange

services will have been properly certified by this Commission. She said she will be the Company's regulatory, financial and customer service contact person.

As to Network US's managerial abilities to offer the services it proposes to offer in South Carolina, Ms. Shah testified that Network US is a privately-held company that is owned by brothers Brian E. and Timothy J. Sledz who have been involved in telecommunications companies as owners and operators for over ten years. She said Brian Sledz was the founder and President of Discount Network Services, Inc., a Chicago-based reseller of long distance service, which was eventually sold to Network Long Distance, Inc. in October, 1995. Brian Sledz is President and Chief Executive Officer of Network US. Timothy Sledz served as Chief Operating Officer of Discount Network Services, Inc. and currently serves as Secretary and Treasurer of Network US. The record reveals that Ms. Shah is Vice President of Operations of Network US. She testified she has over twenty years of experience in the telecommunications industry. She said she started in the industry with Pacific Bell in California in 1980 and had also been with MCI World Com in the collections department in South Carolina. Ms. Shah stated she also had worked for the Affinity Corporation.

In support of Network US's financial ability to provide the services it seeks to provide in South Carolina, Ms. Shah testified that Network US operates at a profit and its July, August and September 2001 financial statements reflect improvement in the Company's financial condition. She said the Company is in sound financial condition and has sufficient financial capability to maintain the services to be offered. Ms. Shah

affirmed the Company's obligation to file all reports required by the Commission by certain deadlines.

According to the Application and Ms. Shah's testimony, Network US requests a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) so that Network US can maintain its records outside of South Carolina. The Company wishes to maintain its books and records at its headquarters in Waukesha, Wisconsin. Ms. Shah stated that the Company is aware and agrees to abide by the Commission's regulation that requires that these records be made available for examination by the Commission at reasonable hours. Network US also requested that it be allowed to keep its books and financial records according to the Generally Accepted Accounting Principles (GAAP) rather than according to the Uniform System of Accounts (USOA).

According to Ms. Shah, Network US has never had authority denied in any state where it has applied for authority nor has the Company had authority revoked in any state where it has been granted authority. Additionally, she said that Network US has never been the subject of an investigation, fined or sanctioned by a state or federal regulatory body. According to the testimony, Network US has not marketed its services in South Carolina prior to receiving certification. Ms. Shah also testified that the Company has received revenues from the completion of intrastate calls in South Carolina prior to receiving this certification because Network US had provided services to Affinity Corporation's customers so they would not be terminated. Ms. Shah said that Network US has never been the subject of an investigation, fined or sanctioned by a state or federal regulatory body. Finally, Ms. Shah testified Network US will abide by all the

Commission's rules, regulations and Orders upon the Company receiving certification to operate as a reseller of intrastate interexchange telecommunications services in South Carolina. The Company agreed to provide the Commission with the final Tariff, a copy of its Bill Form, according to 26 S. C. Code Ann. Regs. 103-612.2.2 and 103-622.1 (1976).

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

#### **FINDINGS OF FACT**

1. Network US is organized as a corporation under the laws of the State of Illinois and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. Network US operates as a non facilities-based reseller of interexchange services and wishes to provide its services in South Carolina.

3. Network US has the experience, capability, and financial resources to provide the services as described in its Application.

#### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Network US to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS),

Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for Network US for its resale of interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Network US shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. Network US shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff, which would be applicable to the general body of the Company's subscribers, shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 1999).

4. If it has not already done so by the date of issuance of this Order, Network US shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations. Further, Network US shall file a copy of its Bill Form as required by 26 S.C. Code Ann. Regs. 103-612.2.2 and 102-622.1 (1976) with its final Tariff.

5. Network US is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Network US shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Network US changes underlying carriers, it shall notify the Commission in writing.

8. Network US shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). The title of this form is "Annual Information on South Carolina Operations For Interexchange Companies and AOS". Be advised that the Commission's annual report for telecommunication companies requires the filing of intrastate revenues and intrastate expenses.

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Network US shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms); this form shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

10. With regard to the origination and termination of toll calls within the same LATA, Network US shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dial parity rules established by the Federal Communications Commission pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

11. By its Application and testimony at the hearing, Network US requested a waiver from the Commission's requirement to maintain its books within the State of South Carolina according to 26 S.C. Code Ann. Regs. 103-610 (1976). The Commission

grants the Company's request to waive the record keeping regulation so that its books and records may be kept at its principal office and headquarters in Wisconsin. The Commission also grants Network US the opportunity to keep its books and records in accordance with GAAP rather than the USOA.

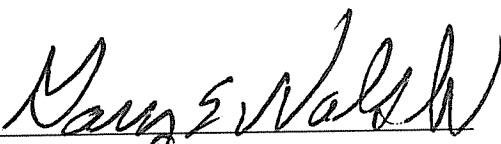
12. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)